

**Executive Summary – Enforcement Matter – Case No. 42142**  
**Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners**  
**RN101055317**  
**Docket No. 2011-1285-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM – IHW, DCL

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Enterprise Cleaners, 2201 West Main Street, League City, Galveston County

**Type of Operation:**

Dry cleaning facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 8, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$103,250

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$91,550

**Total Paid to General Revenue:** \$325

**Total Due to General Revenue:** \$11,375

Payment Plan: 35 payments of \$325 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average by Default

**Major Source:** No

**Statutory Limit Adjustment:** \$2,502

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 42142**  
**Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners**  
**RN101055317**  
**Docket No. 2011-1285-MLM-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 9, 2011

**Date(s) of NOE(s):** July 13, 2011

***Violation Information***

1. Failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning Facility. Specifically, the previous registration expired on December 31, 2006 and was not renewed at the time of the investigation [30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102].
2. Failed to install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning wastewater. Specifically, the Respondent did not have secondary containment around the solvent and waste storage areas [30 TEX. ADMIN. CODE § 337.20(e)(3)(A)].
3. Failed to maintain weekly inspection logs of each secondary containment structure at the Facility to ensure that it has not been damaged. Specifically, the Respondent did not maintain inspection logs of the dry cleaning machine's secondary containment [30 TEX. ADMIN. CODE § 337.20(e)(6)(B)].
4. Failed to maintain required documentation of dry cleaning solvent purchases [30 TEX. ADMIN. CODE § 337.72(1)].
5. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or off-site. Specifically, the Respondent did not document the quantity of hazardous waste generated at the Facility [30 TEX. ADMIN. CODE § 335.9(a)(1)(B)].
6. Failed to submit a complete Affected Property Assessment Report ("APAR") in a manner which is timely and complies with a schedule established by the Executive Director. Specifically, the Respondent submitted an APAR on May 30, 2002, and has failed to respond to requests for additional information needed to complete the APAR [30 TEX. ADMIN. CODE § 350.51(a)].

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**Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners**  
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***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On August 8, 2011, the Respondent submitted documentation certifying that a valid dry cleaning registration has been obtained for the Facility.

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

- i. Install secondary containment structures around the solvent and waste storage areas at the Facility;
- ii. Begin conducting weekly inspections for each secondary containment structure and maintain a log of the inspections at the Facility;
- iii. Begin retaining the required information for the dry cleaning solvent purchases at the Facility; and
- iv. Begin maintaining a record of the quantity of hazardous waste generated at the Facility.

b. Within 45 days:

- i. Submit all information previously requested by the TCEQ concerning the APAR initially submitted on May 30, 2002;
- ii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the APAR within 30 days after the date of such requests or by any other deadline specified in writing; and

c. Within 60 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 42142**  
**Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners**  
**RN101055317**  
**Docket No. 2011-1285-MLM-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Danielle Porras, Enforcement Division,  
Enforcement Team 7, MC R-12, (713) 767-3682; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412.

**TCEQ SEP Coordinator:** N/A

**Respondent:** Thu M. Ngo, Manager, Enterprise Cleaners, 203 Hidden Oak Lane,  
Friendswood, Texas 77546

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	18-Jul-2011	<b>PCW</b>	25-Aug-2011	<b>Screening</b>	25-Jul-2011	<b>EPA Due</b>	
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## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners		
<b>Reg. Ent. Ref. No.</b>	RN101055317		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42142	<b>No. of Violations</b>	3
<b>Docket No.</b>	2011-1285-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Dry Cleaner	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Industrial and Hazardous Waste	<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$4,750

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment for compliance history.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$0

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** \$0

Total EB Amounts \$161  
Approx. Cost of Compliance \$2,700  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$4,750

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$4,750

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$4,750

**DEFERRAL** **20.0%** Reduction **Adjustment** -\$950

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$3,800

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Dry Cleaner

Enf. Coordinator Danielle Porras

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise C

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Dry Cleaner

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 337.20(e)(3)(A)

Violation Description

Failed to install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning wastewater. Specifically, the Respondent did not have secondary containment around the solvent and waste storage areas.

Base Penalty \$5,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$3,750

\$1,250

## Violation Events

Number of Violation Events 3

77 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three monthly events are recommended from the May 9, 2011 investigation date to the July 25, 2011 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$152

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

# Economic Benefit Worksheet

**Respondent** Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners  
**Case ID No.** 42142  
**Reg. Ent. Reference No.** RN101055317  
**Media** Dry Cleaner  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	9-May-2011	21-Mar-2012	0.87	\$7	\$145	\$152
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a dike or other secondary containment structure around the storage area for dry cleaning solvents. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$152



Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise C

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Dry Cleaner

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 337.20(e)(6)(B)

Violation Description

Failed to maintain weekly inspection logs of each secondary containment structure at the Facility to ensure that it has not been damaged. Specifically, the Respondent did not maintain inspection logs of the dry cleaning machine's secondary containment.

Base Penalty \$5,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,500

\$500

## Violation Events

Number of Violation Events 1

77

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended based on documentation of the violation during the May 9, 2011 investigation.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

# Economic Benefit Worksheet

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners  
 Case ID No. 42142  
 Reg. Ent. Reference No. RN101055317  
 Media Dry Cleaner  
 Violation No. 2

Percent Interest 5.0  
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
 Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	9-May-2011	21-Mar-2012	0.87	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain inspection records. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise C

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Dry Cleaner

Enf. Coordinator Danielle Porras

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 337.72(1)

Violation Description

Failed to maintain required documentation of dry cleaning solvent purchases.

Base Penalty \$5,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,500

\$500

## Violation Events

Number of Violation Events 1

77 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended based on documentation of the violation during the May 9, 2011 investigation.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

## Economic Benefit Worksheet

**Respondent** Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners  
**Case ID No.** 42142  
**Reg. Ent. Reference No.** RN101055317  
**Media** Dry Cleaner  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	9-May-2011	21-Mar-2012	0.87	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to retain invoices of dry cleaning solvent purchases. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$4



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	18-Jul-2011	<b>Screening</b>	25-Jul-2011	<b>EPA Due</b>	
	<b>PCW</b>	9-Apr-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners		
<b>Reg. Ent. Ref. No.</b>	RN101055317		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42142	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2011-1285-MLM-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Dry Cleaner	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>	Industrial and Hazardous Waste	<b>Enf. Coordinator</b>	Danielle Porras		
		<b>EC's Team</b>	Enforcement Team 7		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$50	<b>Violation Maximum</b>	\$5,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$8,335

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment for compliance history.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$833

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** \$0

Total EB Amounts \$230  
Approx. Cost of Compliance \$1,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$7,502

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$7,502

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$5,000

**DEFERRAL** **20.0%** Reduction **Adjustment** -\$1,000

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$4,000

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Dry Cleaner

Enf. Coordinator Danielle Porras

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Dry Cleaner

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 337.11(e) and Tex. Health &amp; Safety Code § 374.102

Violation Description

Failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning Facility. Specifically, the previous registration expired on December 31, 2006 and was not renewed at the time of the investigation.

Base Penalty \$50

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release

Major

Moderate

Minor

Actual

Potential

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification

Major

Moderate

Minor

x

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$45

\$5

## Violation Events

Number of Violation Events 1667

1667 Number of violation days

mark only one  
with an x

daily

weekly

monthly

quarterly

semiannual

annual

single event

x

Violation Base Penalty \$8,335

One Thousand Six Hundred Sixty-Seven daily events are recommended from the December 31, 2006 expiration date to the July 25, 2011 screening date.

## Good Faith Efforts to Comply

10.0% Reduction

\$833

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent came into compliance on August 8, 2011, after the NOE dated July 13, 2011.

Violation Subtotal \$7,502

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$230

Violation Final Penalty Total \$7,502

This violation Final Assessed Penalty (adjusted for limits) \$5,000

# Economic Benefit Worksheet

**Respondent** Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners  
**Case ID No.** 42142  
**Reg. Ent. Reference No.** RN101055317  
**Media** Dry Cleaner  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	31-Dec-2006	8-Aug-2011	4.61	\$230	n/a	\$230

Notes for DELAYED costs

Estimated cost (\$250 per year) to register a dry cleaning or drop station facility annually. The Date Required is the expiration date of the registration and the Final Date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$230





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	18-Jul-2011	<b>Screening</b>	25-Jul-2011	<b>EPA Due</b>	
	<b>PCW</b>	25-Aug-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners		
<b>Reg. Ent. Ref. No.</b>	RN101055317		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42142	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-1285-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Dry Cleaner	<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$93,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$7,303  
Approx. Cost of Compliance: \$15,200  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$93,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$93,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$93,500
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$18,700
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$74,800
------------------------	----------

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise C

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.9(a)(1)(B)

Violation Description

Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or off-site. Specifically, the Respondent did not document the quantity of hazardous waste generated at the Facility.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the May 9, 2011 investigation.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

# Economic Benefit Worksheet

**Respondent** Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners  
**Case ID No.** 42142  
**Reg. Ent. Reference No.** RN101055317  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	9-May-2011	21-Mar-2012	0.87	\$9	n/a	\$9
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records documenting hazardous waste quantities. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$9

Screening Date 25-Jul-2011

Docket No. 2011-1285-MLM-E

PCW

Respondent Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cl

Policy Revision 2 (September 2002)

Case ID No. 42142

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101055317

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 350.51(a)

Violation Description

Failed to submit a complete Affected Property Assessment Report ("APAR") in a manner which is timely and complies with a schedule established by the Executive Director. Specifically, the Respondent submitted an APAR on May 30, 2002, and has failed to respond to requests for additional information needed to complete the APAR.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 37

3310 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$92,500

Thirty-Seven quarterly events are recommended from the first documented request for information on July 2, 2002 to the July 25, 2011 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$92,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$7,295

Violation Final Penalty Total \$92,500

This violation Final Assessed Penalty (adjusted for limits) \$92,500

## Economic Benefit Worksheet

**Respondent** Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners  
**Case ID No.** 42142  
**Req. Ent. Reference No.** RN101055317  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$15,000	2-Jul-2002	21-Mar-2012	9.73	\$7,295	n/a	\$7,295
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to produce a complete APAR. The Date Required is the first date the TCEQ asked the Respondent for additional information and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

**TOTAL**

\$7,295



## Compliance History

Customer/Respondent/Owner-Operator:	CN600614358	Thu Phoung Enterprise Cleaners Incorporated	Classification: Average	Rating: 3.01
Regulated Entity:	RN101055317	Enterprise Cleaners	Classification: Average By Default	Site Rating: 3.01
ID Number(s):	DRY CLEANERS REGISTRATION	INTERNAL		101055317
	INDUSTRIAL AND HAZARDOUS WASTE	ID NUMBER		F2094
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID		TXR000080338
Location:	2201 W MAIN ST, LEAGUE CITY, TX, 77573			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 03, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 03, 2006 to August 03, 2011			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Danielle Porras Phone: (713) 767-3682

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1    7/13/2011    (919696)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
THU PHOUNG ENTERPRISE  
CLEANERS INCORPORATED  
DBA ENTERPRISE CLEANERS  
RN101055317**

**§ BEFORE THE  
§  
§  
§ TEXAS COMMISSION ON  
§  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-1285-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 374 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a dry cleaning facility at 2201 West Main Street in League City, Galveston County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The TCEQ has general authority concerning the Respondent pursuant to TEX. HEALTH & SAFETY CODE § 374.051.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 18, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Hundred Three Thousand Two Hundred Fifty Dollars (\$103,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Ninety-One Thousand Five Hundred Fifty Dollars (\$91,550) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid Three Hundred Twenty-Five Dollars (\$325) of the undeferred administrative penalty. The remaining amount of Eleven Thousand Three Hundred Seventy-Five Dollars (\$11,375) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Twenty-Five Dollars (\$325) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on August 8, 2011, the Respondent submitted documentation certifying that a valid dry cleaning registration has been obtained for the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning Facility, in violation of 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102, as documented during an investigation conducted on May 9, 2011. Specifically, the previous registration expired on December 31, 2006 and was not renewed at the time of the investigation.
2. Failed to install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning wastewater, in violation of 30 TEX. ADMIN. CODE § 337.20(e)(3)(A), as documented during an investigation conducted on May 9, 2011. Specifically, the Respondent did not have secondary containment around the solvent and waste storage areas.
3. Failed to maintain weekly inspection logs of each secondary containment structure at the Facility to ensure that it has not been damaged, in violation of 30 TEX. ADMIN. CODE § 337.20(e)(6)(B), as documented during an investigation conducted on May 9, 2011. Specifically, the Respondent did not maintain inspection logs of the dry cleaning machine's secondary containment.
4. Failed to maintain required documentation of dry cleaning solvent purchases, in violation of 30 TEX. ADMIN. CODE § 337.72(1), as documented during an investigation conducted on May 9, 2011.
5. Failed to keep records of all hazardous and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or off-site, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1)(B), as documented during an investigation conducted on May 9, 2011. Specifically, the Respondent did not document the quantity of hazardous waste generated at the Facility.
6. Failed to submit a complete Affected Property Assessment Report ("APAR") in a manner which is timely and complies with a schedule established by the Executive Director, in violation of 30 TEX. ADMIN. CODE § 350.51(a), as documented during an investigation conducted on May 9, 2011. Specifically, the Respondent submitted an APAR on May 30, 2002, and has failed to respond to requests for additional information needed to complete the APAR.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners, Docket No. 2011-1285-MLM-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:

- i. Install secondary containment structures around the solvent and waste storage areas at the Facility, in accordance with 30 TEX. ADMIN. CODE § 337.20;
- ii. Begin conducting weekly inspections for each secondary containment structure and maintain a log of the inspections at the Facility, in accordance with 30 TEX. ADMIN. CODE § 337.20;
- iii. Begin retaining the required information for the dry cleaning solvent purchases at the Facility, in accordance with 30 TEX. ADMIN. CODE § 337.72; and
- iv. Begin maintaining a record of the quantity of hazardous waste generated at the Facility.

- b. Within 45 days after the effective date of this Agreed Order:

- i. Submit all information previously requested by the TCEQ concerning the APAR initially submitted on May 30, 2002 to:

Environmental Cleanup Section  
Remediation Division MC 137 or 221  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- ii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the APAR within 30 days after the date of such requests or by any other deadline specified in writing; and
- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a

written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Dancie Jr.  
For the Executive Director

7/27/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Thung  
Signature

4/12/12  
Date

THU NGO  
Name (Printed or typed)  
Authorized Representative of  
Thu Phoung Enterprise Cleaners Incorporated dba Enterprise Cleaners

MANAGER  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.